

Message Text

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C O N F I D E N T I A L USBERLIN 1065

E.O.11652: GDS
TAGS: PGOV, BQG, AKB, PORS
SUBJECT: SPIEGEL ARTICLE ON ALLIED WEAPONS RESTRICTIONS IN BERLIN

REF: USBERLIN 0934

1. THE APRIL 24 SPIEGEL CONTINUES THE SPRINGER PRESS CAMPAIGN OF RIDICULING THE MORE ARCHAIC-APPEARING ASPECTS OF ALLIED WEAPONS RESTRICTIONS IN BERLIN AND BEWAILING THE ABSENCE OF LEGAL UNIFORMITY WITH THE FEDERAL REPUBLIC IN THIS AREA. THE THRUST OF THE ARTICLE IS THAT THE ALLIED DECISION NOT TO PERMIT JUDGES AND PROSECTUORS IN THE BERLIN TERRORIST TRIALS TO BE PERSONALLY ARMED PROVIDES MORE THAN ADEQUATE REASON FOR BERLIN JUSTICE SENATOR BAUMANN'S PERSISTANT PURSUIT OF THIS ISSUE AND HIS REPORTED DESIRE TO HAVE A "CRITICAL ANALYSIS" MADE OF THE ENTIRE OCCUPATION RIGHTS MATTER.

2. THIS IS THE LATEST VOLLEY IN A LONGTERM SPRINGER CAMPAIGN. IT IS NOTEWORTHY FOR GIVING GREATER NATIONAL EXPOSURE TO THE PROBLEM AND FOR HIGHLIGHTING RECHTSEINHEIT (LEGAL UNIFORMITY WITH THE FRG) AS THE PRIMARY CONSIDERATION.

3. BAUMANN'S OWN CONTINUING CAMPAIGN IS SOMETHING OF AN
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EMBARRASSMENT TO GOVERNING MAYOR STOBBE AND THE SPD SIDE OF THE CITY'S GOVERNMENT, FOLLOWING AS IT DOES THE FIRM ALLIED DENIAL OF THE SENAT REQUEST TO PERMIT ARMING OF JUDGES AND PROSECUTORS. THE MAIN ARGUMENT, RECHTSEINHEIT, HAS UNDENIABLE POPULAR APPEAL, HOWEVER. MANY OF THE CURRENT RESTRICTIONS, ESPECIALLY AFTER THREE DECADES, MAKE READY TARGETS FOR EASY RIDICULE, AND OTHERS APPEAR

ARBITRARY AND CUMBERSOME IF ONE CHOOSES TO IGNORE THE EXISTENCE OF ALLIED RIGHTS AND THE CITY'S CONTINUING OCCUPATION STATUS. MANY PERCEIVE (INCORRECTLY) THAT UNIFORMITY OF LAW AND PRACTICE WITH THE FRG IN OTHER AREAS IS THE NORM; THUS THE WEAPONS GAP BECOMES EVER MORE NOTICEABLE. THERE IS NO REAL UNIFORMITY OF FRG AND BERLIN LAW, SINCE IN BERLIN ALLIED LAW WILL PREVAIL IN THE EVENT OF CONFLICT WITH FRG LAW EXTENDED TO BERLIN. SUCH CONFLICT MAY OCCUR EVEN WITH RESPECT TO LEGISLATION ON SUBJECTS WHICH DO NOT FALL IN THOSE AREAS EXPRESSLY RESERVED BY THE ALLIES.

4. E NOTE THAT THERE IS LITTLE INCLINATION BY PROPONENTS TO ARGUE WITH ANY REAL PERSISTENCE THAT PERMITTING ARMING WOULD MATERIALLY ENHANCE THE SECURITY OF JUDGES OR PROSECUTORS. ACCORDING TO SOURCES CLOSE TO BAUMANN, THE SENATOR HIMSELF WAS ORIGINALLY COOL, ON PRACTICAL GROUNDS, TOWARDS THE IDEA OF COURT OFFICIALS BEING ARMED. WHAT HAS APPARENTLY AROUSED HIS STRONG INTEREST WAS THE ALLIED ROLE IN DENYING BERLIN AUTHORITIES THE OPTION TO ADOPT SOME LIMITED VERSION OF FRG WEAPONS PRACTICES; I.E., THE ALLIES HAD A VETO POWER WHICH THEY EXERCISED.

5. THE RECHTSEINHEIT ARGUMENT ALONE PROVIDES PERHAPS THE WEAKEST BASIS FOR ENCOURAGING THE ALLIES TO CHANGE EXISTING WEAPONS RESTRICTIONS. IT IS TAKEN FOR GRANTED THAT AS
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AN OCCUPIED, DEMILITARIZED CITY, BERLIN BY DEFINITION ENJOYS A UNIQUE STATUS. AT THIS POINT THE PRACTICAL, URGENT REASONS FOR ARMING COURT OFFICIALS DO NOT SEEM TO ALLIED OFFICIALS HERE TO OUTWEIGH WHAT MANY FEAR WOULD BE THE DETRIMENTAL AFFECT ON THE WESTERN POSITION IF WEAPONS RESTRICTIONS WERE ALTERED. PROPONENTS OF CHANGE OF COURSE DO NOT SEE IT THIS WAY AND WE WOULD NOT WISH TO UNDERESTIMATE OUR DEVELOPING DIFFERENCES WITH SOME BERLIN POLITICAL LEADERS ON THIS ISSUE. SENAT CDU FRAKTION MEMBERS WITH RESPONSIBILITIES FOR POLICE QUESTIONS RECENTLY REAFFIRMED TO ALLIED SENAT LIAISON AND PUBLIC SAFETY OFFICERS THEIR INTEREST IN EASING RESTRICTIONS. THEY CLEARLY REMAIN CONVINCED THAT THE FACT THAT WEAPONS ARE PERMITTED INDIVIDUALS ELSEWHERE FOR SELF-DEFENSE SHOULD BE REASON ENOUGH TO PERMIT LIMITED ARMING OF ENDANGERED INDIVIDUALS HERE. GEORGE

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